

properly filed a notice of entry of appearance as attorney or representative entitling that person to file the request for hearing, the appeal will be considered as improperly filed. In such a case, any filing fee will not be refunded regardless of the action taken. The reviewing official will ask the attorney or representative to submit a proper notice of entry within 15 days of the request. If such notice is not submitted within the time allowed, the official may, on his or her own motion, under 8 CFR 103.5(a)(5)(i), make a new decision favorable to the affected party without notifying the attorney or representative. The request for hearing may be considered properly filed as of its original filing date if the attorney or representative submits a properly executed notice entitling that person to file the request for hearing.

(2) *Untimely request for hearing*—(i) *Rejection without refund of filing fee.* A request for hearing which is not filed within the time period allowed must be rejected as improperly filed. In such a case, any filing fee will not be refunded.

(ii) *Untimely request for hearing treated as motion.* If an untimely request for hearing meets the requirements of a motion to reopen as described in 8 CFR 103.5(a)(2) or a motion to reconsider as described in 8 CFR 103.5(a)(3), the request for hearing must be treated as a motion and a decision must be made on the merits of the case.

[76 FR 53802, Aug. 29, 2011]

§§ 336.3–336.8 [Reserved]

§ 336.9 Judicial review of denial determinations on applications for naturalization.

(a) *General.* The provisions in part 310 of this chapter shall provide the sole and exclusive procedures for requesting judicial review of final determinations on applications for naturalization made pursuant to section 336(a) of the Act and the provisions of this chapter by USCIS on or after October 1, 1991.

(b) *Filing a petition.* Under these procedures, an applicant must file a petition for review in the United States District Court having jurisdiction over his or her place of residence, in accordance with Chapter 7 of Title 5, United

States Code, within a period of not more than 120 days after the USCIS final determination. The petition for review must be brought against USCIS, and service of the petition for review must be made upon DHS and upon the USCIS office where the hearing was held pursuant to 8 CFR 336.2.

(c) *Standard of review.* The review will be *de novo*, and the court will make its own findings of fact and conclusions of law. The court may also conduct, at the request of the petitioner, a hearing *de novo* on the application for naturalization.

(d) *Exhaustion of remedies.* A USCIS determination denying an application for naturalization under section 335(a) of the Act shall not be subject to judicial review until the applicant has exhausted those administrative remedies available to the applicant under section 336 of the Act. Every petition for judicial review shall state whether the validity of the final determination to deny an application for naturalization has been upheld in any prior administrative proceeding and, if so, the nature and date of such proceeding and the forum in which such proceeding took place.

[56 FR 50499, Oct. 7, 1991, as amended at 76 FR 53802, Aug. 29, 2011]

PART 337—OATH OF ALLEGIANCE

Sec.

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337.3 Expedited administration of oath of allegiance.

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AUTHORITY: 8 U.S.C. 1103, 1443, 1448; 8 CFR part 2.

§ 337.1 Oath of allegiance.

(a) *Form of oath.* Except as otherwise provided in the Act and after receiving notice from the district director that such applicant is eligible for naturalization pursuant to § 335.3 of this

chapter, an applicant for naturalization shall, before being admitted to citizenship, take in a public ceremony held within the United States the following oath of allegiance, to a copy of which the applicant shall affix his or her signature:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

(b) *Alteration of form of oath; affirmation in lieu of oath.* In those cases in which a petitioner or applicant for naturalization is exempt from taking the oath prescribed in paragraph (a) of this section in its entirety, the inapplicable clauses shall be deleted and the oath shall be taken in such altered form. When a petitioner or applicant for naturalization, by reason of religious training and belief (or individual interpretation thereof), or for other reasons of good conscience, cannot take the oath prescribed in paragraph (a) of this section with the words “on oath” and “so help me God” included, the words “and solemnly affirm” shall be substituted for the words “on oath,” the words “so help me God” shall be deleted, and the oath shall be taken in such modified form. Any reference to ‘oath of allegiance’ in this chapter is understood to mean equally ‘affirmation of allegiance’ as described in this paragraph.

(c) *Obligations of oath.* A petitioner or applicant for naturalization shall, before being naturalized, establish that it is his or her intention, in good faith, to assume and discharge the obligations of the oath of allegiance, and that his or her attitude toward the Constitution and laws of the United States ren-

ders him or her capable of fulfilling the obligations of such oath.

(d) *Renunciation of title or order of nobility.* A petitioner or applicant for naturalization who has borne any hereditary title or has been of any of the orders of nobility in any foreign state shall, in addition to taking the oath of allegiance prescribed in paragraph (a) of this section, make under oath or affirmation in public an express renunciation of such title or order of nobility, in the following form:

(1) I further renounce the title of (give title or titles) which I have heretofore held; or

(2) I further renounce the order of nobility (give the order of nobility) to which I have heretofore belonged.

[22 FR 9824, Dec. 6, 1957, as amended at 24 FR 2584, Apr. 3, 1959; 32 FR 13756, Oct. 3, 1967; 56 FR 50499, Oct. 7, 1991]

§ 337.2 Oath administered by USCIS or EOIR.

(a) *Public ceremony.* An applicant for naturalization who has elected to have his or her oath of allegiance administered by USCIS or an immigration judge and is not subject to the exclusive oath administration authority of an eligible court pursuant to section 310(b) of the Act must appear in person in a public ceremony, unless such appearance is specifically excused under the terms and conditions set forth in this part. Such ceremony will be held at a time and place designated by USCIS or EOIR within the United States (or abroad as permitted for certain applicants in accordance with 8 U.S.C. 1443a) and within the jurisdiction where the application for naturalization was filed, or into which the application for naturalization was transferred pursuant to 8 CFR 335.9. Naturalization ceremonies will be conducted at regular intervals as frequently as necessary to ensure timely naturalization, but in all events at least once monthly where it is required to minimize unreasonable delays. Naturalization ceremonies will be presented in such a manner as to preserve the dignity and significance of the occasion.